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September 23, 1997

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: ***Ex Parte* Presentation**
ET Docket No. 95-183, RM-8553, PP Docket No. 93-253

Dear Mr. Caton:

A representative of WAVTrace and its attorneys and counsel for Advanced Radio Telecom Corp. ("ART") met yesterday with David Horowitz, Herbert Zeiler, Robert James and Susan Magnotti of the Public Safety and Private Wireless Bureau. The presentation was limited to a discussion of the proposed amendment of the Federal Communications Commission's Rules related to the licensing of spectrum in the 38.6-40.0 GHz ("39 GHz") frequency band, as contained in the Notice of Proposed Rule Making in ET Docket No. 95-183, RM-8553, PP Docket No. 93-253 (released December 15, 1995).

WAVTrace made a presentation describing the technical design and performance characteristics of its point-to-multipoint system designed for use in the 39 GHz band. WAVTrace and ART also discussed their positions on the proposed rules under consideration in the pending 39 GHz rulemaking. Specifically, WAVTrace and ART urged relaxation of the Category A antenna requirement and permitting point-to-multipoint use of the spectrum. The rulemaking positions advocated are summarized in the materials attached hereto, which were left with the Commission and are submitted for inclusion in the record.

In accordance with Rule 1.1206(b), the original and six copies (two for each Docket or Rulemaking number) of this disclosure have been submitted this 23rd day

of September to the Office of the Secretary. Questions regarding this matter should be directed to the undersigned.

Sincerely,

Lee J. Tiedrich
Jennifer A. Johnson

Counsel for WAVTrace

/s/ W. Theodore Pierson, Jr.
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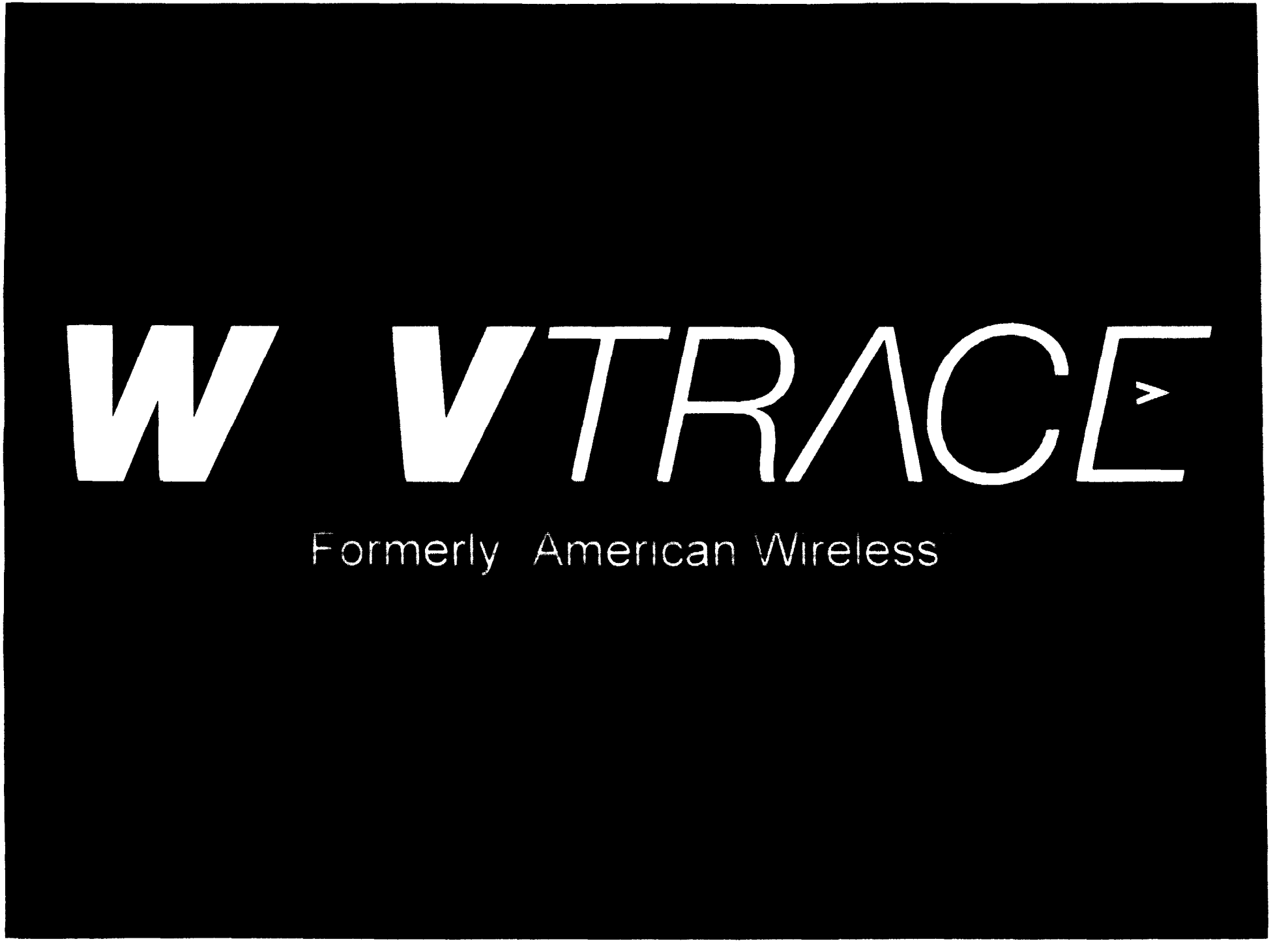
Counsel for Advanced Radio Telecom Corp.

Attachments

cc: David Horowitz
Robert James
Susan Magnotti
Herbert Zeiler


W VTRACE
Formerly American Wireless

Summary

- Modular, scalable
  - supports wide range of capacities
  - evolve to "cellular fabric"
  - grow with demand
- Fast, simple installation
  - fast time to commission
  - low deployment and life cycle costs
- Supports heterogeneous services
- High spectral efficiency
- Strong foundation architecture
  - more links, higher data rates

PTM Supports Public Interest

Affordable Services

- PTP radios address less than 10 % of potential market for short-range high quality *high-capacity* radio links
- PTM systems use cellular-like designs to address the small and medium-sized businesses that make up the rest of the market

Increased Local Access Competition

- High costs of fiber installation and wired upgrades have promoted little competition among wired operators, particularly for the small to medium-sized business customer
- PTM offers high-capacity heterogeneous services for customers and low capital outlays for the service provider

Recommendations

Neither specify nor restrict:

- airlink protocols
- modulation
- spectral efficiency
- antenna category, i.e., do not require Standard A antennas
  - PTM technology relies on wide beam widths, including hub-to-hub communications

Permit competition to distill trade-offs in cost-effectiveness

Coordinate precise locations of all transmitters and receivers

- mitigate interference by allowing 38 GHz licensees to exchange frequencies through streamlined assignment procedures and allow for transmission capacity leasing arrangements

Rulemaking Proceedings Affecting the 38 GHz Frequency Band

Presented to the Wireless Telecommunications Bureau

on

September 22, 1997

by

W. Theodore Pierson, Jr., Consultant and Co-Founder

Advanced Radio Telecom Corp.

Multiple Point-to-Point Operations at 38 GHz

- Alter FCC Part 101 Rules and policies to accommodate Multiple Point-to-Point operations at 38 GHz
    - Contemplated by Band Plan and U.S. position in favor of "high density" uses for millimetric wave frequencies

Multiple Point-to-Point Operations at 38 GHz (continued)

- Necessary for achievement of potential for 38 GHz
    - Halving of costs for new subscribers
    - Quicker deployment
- New opportunities for equipment manufacturers
    - Maintain U.S. lead in millimetric frequency equipment development

Multiple Point-to-Point Operations at 38 GHz (continued)

- Necessary for comparative parity with other local loop services and providers
    - LMDS
    - DEMS

Multiple Point-to-Point Operations at 38 GHz (continued)

- Methods for Commission adoption
  - Announce and adopt in 38 GHz Order that Multiple Point-to-Point operations are desirable and will be permitted at 38 GHz
  - Commence an expedited Rulemaking proceeding to adopt specific rules
    - ART and Wave Trace will propose specific rules

Buildout and Operating Benchmarks

- No requirements for either initial construction or continuing operations
    - ART's experience has shown both to be unnecessary and too constraining
    - Value of spectrum and return on sunk investment ensure no warehousing
    - Demand too variable geographically and too unknown to require formalistic requirements

Buildout and Operating Benchmarks
(continued)

- No more reason to require than for auctions (not proposed to be required)
    - Leading 38 GHz licensees have spent substantial sums on acquisitions and buildout to date
        - Sufficient sunk investment results in high motivation to construct as quickly as possible

Buildout and Operating Benchmarks
(continued)

- Existing operating requirements are ambiguous and unrelated to actual operations
- FCC has demonstrated that it does not have the resources or motivation to enforce its Rules
    - Imposition of prohibitions promotes disrespect and discriminates against public companies and others that choose to abide by the letter of the Rules

Spectrum Caps

- No need to place any limits on 38 GHz holdings
  - Market properly defined includes all local loop service providers (wired and wireless)
  - Sufficient competition exists, with majority of competitors possessing much greater capacity
    - LECs
    - LMDS
    - DEMS
    - New above 40 GHz spectrum

Technical Rules

- None except for Effective Isotropic Radiated Power (EIRP)
    - Consistent with FCC approach elsewhere
    - Industry has sufficient incentive to avoid interference
- Leave frequency coordination to the industry under National Spectrum Management Association (NSMA) guidelines
    - Commission's role should be only as last-ditch arbiter